

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

**MOTION FOR RELIEF
FROM AUTOMATIC STAY**

SEARS HOLDINGS CORPORATION, *et al.*,

Debtor.

Chapter 11
Case No. 18-23538 (RDD)
Hon. Robert D. Drain
(Jointly Administered)

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I, Lisa Milas, an attorney admitted to practice law, in the courts of the State of New York and in this Court, hereby affirms the following to be true under penalty of perjury.

1. I am a partner with Schiller, Knapp, Lefkowitz & Hertz, LLP, attorneys for Wilmington Savings Fund Society, FSB, acting not in its Individual Capacity but Solely as Trustee of Southside NSP Trust 2017-1, by its servicing agent BSI Financial Services, (hereinafter "Movant"). I am fully familiar with the facts of this case and submit this affirmation in support of an Order granting relief from the automatic stay pursuant to 11 U.S.C. §362(d)(1) to permit Movant to proceed with an action to foreclose its mortgage on certain real property, commonly known as 109 Division Street, Little Egg Harbor Twp, NJ 08087. As grounds for said Motion, it is hereby alleged as follows:

2. On July 21, 2005, Michael J. Parker borrowed \$201,832.00 from BSM Financial, L.P. The indebtedness was evidenced by a note, which was secured by a mortgage on the aforesaid real property.

2. Debtor filed a petition for relief under Chapter 11 of the United States Bankruptcy Code in this Court on October 15, 2018.

3. As a result of Michael J. Parker's default under the terms of the Note and Mortgage, Movant commenced a foreclosure action in the Superior Court of New Jersey. A copy of the Third Amended Complaint is annexed hereto as Exhibit "A".

4. Sears Roebuck and Company was named as a party defendant in the foreclosure action as a result of a judgment obtained against Movant in the amount of \$2,481.74. A copy of the transcript of judgment is made a part hereof as Exhibit "B"

5. Movant seeks relief from the automatic stay to proceed with the foreclosure action, in which the Debtor is named defendant by virtue of the Judgment.

6. Movant is not adequately protected by the continuation of the stay, as it will be unable to enforce its state court remedies in the Foreclosure action. As a judgment creditor, should there be surplus after the foreclosure sale of the property, the debtor will be entitled to make an application for same in the foreclosure action in accordance with its state court rights.

WHEREFORE, Wilmington Savings Fund Society, FSB, acting not in its Individual Capacity but Solely as Trustee of Southside NSP Trust 2017-1, by its servicing agent BSI Financial Services respectfully request an order vacating the automatic stay as it pertains to certain real property and such other and further relief as the Court may deem just and proper.

Dated: April 10, 2019

**SCHILLER, KNAPP, LEFKOWITZ
& HERTZEL LLP**

By: s/Lisa Milas

Lisa Milas, Esq.

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